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**D. REMARKS**

***Specification***

Applicants have amended the specification above to include the application serial numbers of the related cross-references.

***Elections/Restrictions***

The Examiner asserts that a restriction of inventions is required under 35 U.S.C. 121. The Examiner describes the inventions as (Group 1) Claims 1-10 drawn to Automatic Call Distribution System, classified in class 379, subclass 265.02; and (Group 2) Claims 11-37 drawn to authenticating identity matching an expert identity and routing the call to an agent/expert, classified in class 379, subclass 265.12.

Examiner Quynh Nguyen contacted Applicants' representative, Amy Pattillo, via telephone on 10/22/03 and described the restriction requirement. Applicants' representative made an oral provisional election without traverse to prosecute the invention of Group 1, Claims 1-10.

Applicants formally elect without traverse to prosecute the invention of group 1, claims 1-10, in response to the Examiner's restriction requirement in paragraphs 1-3 of the Office Action. Claims 11-37 have been cancelled in response. In view of the Examiner's restriction requirement in paragraphs 1-3, Applicants retain the right to present canceled claims 11-37 in a divisional application as provided under 35 U.S.C. 121. Furthermore, Applicants respectfully note that inventorship has not changed as a result of the claims cancellation.

***Interview Summary***

On February 17, 2004 at 3:00 PM EST, an interview was conducted via telephone between Amy Pattillo, Applicants' Representative, and Examiners Quynh Nguyen and Ahmad Matar. No exhibits were shown, nor demonstrations conducted.

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Applicants' representative and the Examiners discussed claim 1, and in particular the third element of claim 1. Specifically, the prior art cited against claim 1 is the US Patent to Walker (U.S. Patent 6,125,178).

First, with reference to claim 1, Applicants' representative argued that the prior art does not teach offering an incentive to the caller to transfer the caller to an expert while the call is on hold. In particular, the Office Action cited col. 6, lines 33-36 as the teaching of the third element of claim 1. Applicants' representative argued that this section teaches offering an incentive for a caller currently talking to a representative to allow others waiting on hold to listen in. The Examiners clarified that the Office Action miscites the portion of the prior art that they claim teaches element 3. According to the Examiner, the Office Action should cite col. 4, lines 6-13 of Walker instead of col. 6, lines 33-36. The Examiners propose that the incentive offered in the prior art is the option to listen in to a live call in progress, to access and search through pre-recorded calls in the same subject area, or to participate in a chat room. The Examiners did not understand why there would need to be additional incentives for someone waiting on hold to connect to an expert. Applicants' representative clarified that the experts may be independent entities that have registered with the call center to handle calls and receive compensation from the call center if they successfully handle calls. Applicants' representative continued to assert that the present invention teaches offering an additional "incentive" in addition to "listening in" which is not taught in Walker.

Second, with reference to claim 1, the principal proposed amendment to claim 1 would clarify that the "expert" is an entity independent of the call center. Applicants' representative argued that the prior art does not teach providing an incentive for a caller waiting at a call center to connect to an expert that is an entity independent of the call center. The Examiners agreed that this clarification would aid in distinguishing the claim from the prior art. However, no agreement with respect to the claim was reached. Applicant is filing this response with the amended claims for further review by the Examiner.

Applicants' representative and the Examiners also discussed claim 3, and in particular a proposed amendment to claim 3 in view of the prior art. Specifically, the prior art cited against

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claim 3 is Walker (U.S. Patent 6,125,178) and Ginsburg (U.S. Patent 6,064,730). The principal proposed amendment to claim 3 would add an element of "transferring said call to said expert" to clarify that the caller is notified of the availability of a representative while talking with the expert. Applicants' representative argued that the prior art does not teach a system where a caller is transferred from a call center to an independent expert system, but can still be notified that the caller is next in line to speak with a representative from the call center. The Examiner responded that this clarification would reduce the confusion in the current claim and help to distinguish the claim from the prior art. An agreement with respect to the claim was not reached. Applicant is filing this response with the amended claims for further review by the Examiner.

Additionally, with respect to claim 3, Applicants' representative and the Examiner also briefly discussed Applicants' assertion that the Office Action does not clearly state the motivation for combining the two references as is required for a prima facie showing of obviousness under 35 U.S.C. § 103. Applicant requested clarification and asked if the motivation was because both systems describe call centers and therefore there is a motivation inherent in the references to implement improvements described in the Ginsburg call center within the Walker call center. The Examiner agreed with this articulation of the motivation for combining the references.

### 35 USC § 102(b)

Claims 1, 2, 3-6, and 8-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Walker et al. (US Patent Number 6,125,178) "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed Cir. 1987). Furthermore the reference must be an enabling disclosure of each and every element as set forth in the claim. *In re Hoecksmas*, 158 USPQ 596, 600 (CCPA 1968); *In re LeGrive*, 133 USPQ 365, 372 (CCPA 1962). Because the Examiner does not show that Walker teaches each and every element of the claims 1, 2, 3-6, and 8-10 or enables each and every element of these claims, these claims are not anticipated, the rejection should be withdrawn, and the claims should be allowed.

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**Claims 1 and 5**

With respect to claims 1 and 5, the Examiner cites Walker col. 3, lines 13-39 and col. 4, lines 6-13 as teaching the method and system of claims 1 and 5.

Claim 1 currently reads:

1. (Original) A method for managing an on hold call comprising:

receiving a call at a call center from a caller;

placing said call on hold in a hold queue until a representative of said call center is available to answer said call; and

offering an incentive to said caller to transfer said call to an expert while said call is on hold in said hold queue waiting for said representative, such that use of said expert is promoted.

Claim 5 currently reads:

5.(Original) A system for managing an on hold call comprising:

a call center comprising a hold queue;

means for receiving a call at said call center from a caller;

means for placing said call on hold in said hold queue until a representative of said call center is available to answer said call; and

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means for offering an incentive to said caller to transfer said call to an expert while said call is on hold in said hold queue waiting for said representative, such that use of said expert is promoted.

Applicants respectfully propose that Walker does not anticipate the invention of claims 1 and 5 because Walker does not teach expressly or inherently the step of “offering an incentive to said caller to transfer said call to an expert while said call is on hold in said hold queue waiting for said representative, such that use of said expert is promoted.”

Applicants respectfully note that during the phone interview, as previously summarized, the Examiner clarified that the rejection of the “offering an incentive” step is based on col. 4, lines 6-13, and not col. 6, lines 33-36 as cited in the Office Action. Col. 4, lines 6-13 of Walker teach:

“Enabling an incoming caller whose call has been placed on hold in a queue to either “listen-in” on a live call-in-progress, to access and search through pre-recorded calls in the same subject area or to participate in a chat room, provides many benefits. Among these benefits are a reduction in calls that will require live operator assistance, an increase in customer satisfaction, and an decreased hold time for each caller.”

Applicants respectfully propose that Walker col. 4, lines 6-13 merely teaches a method for allowing a caller to select from other listening options provided by the call center while the caller is waiting in a hold queue. Further, Walker describes some of the passive *benefits* to the call center, not to the caller, that may result from a caller selecting other listening options while the caller is waiting in a hold queue. Walker does not teach offering a specific *incentive* to a caller waiting in the hold queue to promote the caller selection from other listening options.

The Examiners noted during the Interview that they equate the term “benefit” as equivalent with the term “incentive” and that the mere offering of other call options to the caller

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waiting in a call queue is an incentive. Applicants respectfully note, however, that the claim, teaches offering a specific, measurable incentive to select an expert as a listening option as distinguished from just offering an expert as a listening option.

Further clarifying that col. 4, lines 6-13 of Walker does not teach offering an incentive to callers waiting in the hold queue, within the Walker specification “incentives” provided to callers are distinguished from “benefits” passively received by a call center. Col. 6, lines 33-36 of Walker specifically refers to an *incentive*, and not a *benefit*, offered to callers already talking with a representative. In particular, Col. 6, lines 33-36 of Walker reads:

“Call centers may provide callers with some *incentive* to allow other callers to “listen in”. For example, a caller might receive a discount towards a future purchase for allowing an open line”

It is important to note for purposes of future examination that, col. 6, lines 33-36 teaches offering incentives to callers who are *already* talking with a representative, which is different from the offering of incentive to those callers who are *waiting* in a hold queue, as is taught in the present invention.

In contrast to Walker, the present invention teaches an active offering of a specific “incentive” to a caller waiting in a hold queue so that the caller knows the specific benefit that will be received if the caller selects to connect to an expert. An “offering of an incentive” to select to connect with an expert is distinguishable from the actual option to connect to an expert. Further, the specification of the present invention elaborates that the “incentives” specifically offered to callers may include financial incentives, reward point incentives, or specific adjustment in hold queue position adjustment points. [p. 10, lines 3-5]. The “incentives” are specifically designated in a menu of options provided to the user. [p. 27, lines 24-27] *not in claimed*

Therefore, because the Examiner does not specifically point out the teaching, either expressly or inherently, in Walker for “offering an incentive to said caller to transfer to an expert”, claims 1 and 5 are not anticipated by Walker and should be allowed.

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**Claims 2, 4, 6 and 8**

Regarding claims 2, 4, 6 and 8, Applicants respectfully propose that because the Examiner did not establish that Walker anticipates the independent claims 1 and 5 upon which these dependent claims rely, Walker also does not anticipate these dependent claims and the dependent claims should be allowed. Specifically, however, Applicants respectfully propose that even if Walker anticipates Claims 1 or 5, Walker does not anticipate claims 4 and 8.

**Claims 4 and 8**

Specifically, with respect to claims 4 and 8, the Examiner cites Walker, col. 6, lines 34-37 as teaching the method and system of claims 4 and 8.

Claim 4 currently reads:

4.(Original) The method for managing said on hold call according to claim 1, wherein said incentive comprises at least one from among an adjustment in position within said hold queue, a financial incentive, a rewards points incentive, and a time incentive.

Claim 8 currently reads:

8.(Original) The system for managing said on hold call according to claim 5, wherein said incentive comprises at least one from among an adjustment in position within said hold queue, a financial incentive, a rewards points incentive, and a time incentive.

Applicants respectfully propose that Walker does not anticipate the invention of claims 4 and 8 because Walker does not teach expressly or inherently offering an incentive to a caller where the "incentive comprises at least one from among an adjustment in position within said hold queue, a financial incentive, a rewards points incentive, and a time incentive."

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Walker col. 6, lines 34-37 read:

“Call centers may provide callers with some incentive to allow other callers to “listen in”. For example, a caller might receive a discount towards a future purchase for allowing an open line.”

Applicants respectfully note that Walker teaches providing an incentive to a caller who is already talking with a representative. Walker does not teach offering an incentive to a caller who is waiting in a hold queue. Further, while Walker teaches providing a discount towards future purchases to a caller already speaking with a representative, Walker does not teach offering an incentive to a caller waiting in the hold queue, nor an incentive a specific jump in the hold queue, a rewards points incentive, or a time incentive. In contrast, claim 1, describes offering the incentive to a caller who is waiting in a hold queue. Claims 4 and 8 further describe the incentive as an adjustment in position within the hold queue, a financial incentive, a rewards points incentive, and a time incentive. Therefore, because Walker does not teach each element of Claims 4 and 8, Walker does not anticipate the invention of Claims 4 and 8 and the claims should be allowed.

#### Claim 9

Claim 9 stands rejected as a program claim, for performing the method of claim 1, and therefore are rejected under the same rationale. Applicants respectfully propose that the Examiner does not establish anticipation of claim 1, and therefore corresponding program claim 9 should not be rejected.

#### *35 USC § 103(a)*

Claims 3, 7, and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Walker (US Patent Number 6,125,178) in view of Ginsburg (US Patent Number 6,064,730). Applicants first note the above proposition that claims 1, 5 and 9 are not taught by Walker, and

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therefore as dependent claims of allowable subject matter, claims 3, 7, and 10 should also be allowed. Applicants second note that claims 3, 7 and 10 have been amended to overcome the obviousness rejection.

Responsive to the original claims, the Examiner cites Walker as teaching "detecting the call at the top of the hold queue." (col. 3, lines 34-39). Walker does not teach notifying the caller of the availability of the representative. The Examiner cites Ginsburg as teaching that "a caller is presented with graphical display information such as agent availability, waiting time. (col. 2, lines 7-12). The Examiner proposes that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of notifying the caller of an availability of the representative, as taught by Ginsburg, in Walker's system in order to increase customer satisfaction and provide customer with a choice of whether or not to get connected with an available representative."

In response, Applicants have amended claims 3, 7, and 10 to distinguish the invention from the prior art. In particular, Applicants have amended claims 3, 7, and 10 in the manner proposed during the Interview.

As amended, claim 3 reads:

3.(Currently Amended) The method for managing said on hold call according to claim 1, further comprising:

responsive to said caller selecting said incentive, transferring said call to said expert operating from a calling system independent of said call center;

responsive to detecting said call at the top of said hold queue, notifying said caller of an availability of said representative while said caller is connected to said expert.

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As amended, claim 7 reads:

7.(Currently Amended) The system for managing said on hold call according to claim 5, further comprising:

means responsive to said caller selecting said incentive, for transferring said call to said expert operating from a calling system independent of said call center;

means responsive to detecting said call at the top of said hold queue, for notifying said caller of an availability of said representative while said caller is connected to said expert.

First, claims 3, 7, and 10 now teach that the call is transferred to the expert so that the notification of representative availability occurs while the caller is connected to the expert. The prior art references, in combination, do not teach a system where the caller is connected to an expert, but is still waiting in the hold queue, and is thus notified when the call is detected at the top of the hold queue.

Second, claims 3, 7, and 10 now teach that the call is transferred to the expert operating from a calling system independent of the call center. The prior art references, in combination, do not teach transferring the call to any system operating from a calling system independent of the call center.

#### *New Claims*

Applicants respectfully propose new claims 38-46, responsive to the Interview and to the election requirement. Claims 38, 39, 41, 42, 44 and 45 teach an expert operating from a calling system independent of the call center. Claims 40, 43, and 46 teach authenticating an identity of the expert and verifying the expert as qualified before completing the call transfer to the expert.

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***Conclusion***

Applicants note the citation of pertinent prior art cited by the Examiner.

In view of the foregoing, withdrawal of the rejections and the allowance of the current pending claims are respectfully requested. If the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.

Respectfully submitted,



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